HONOURABLE MRS. JUSTICE T.MEENA KUMARI
&
HONOURABLE MS JUSTICE G. ROHINI

WRIT PETITION No:25566 OF 2007

Dated:30.11.2007

Between:

M/s. Turbovent Industries (P) Limited,
301, 3rd Floor, Manjeera Square,
Ameerpet, Hyderabad, rep., by its
Accounts Officer K. Siva Kumar

..Petitioner

And

1. The Commercial Tax Officer,
   Basheerbagh Circle, Hyderabad and others.

..Respondents.

-

-

-

HONOURABLE MRS. JUSTICE T.MEENA KUMARI
&
HONOURABLE MS JUSTICE G. ROHINI

WRIT PETITION No:25566 OF 2007

ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petition is filed by the petitioner seeking to quash the order of the 3rd respondent in CCT's Ref.No.LV(1)/819/2007, dated 20.11.2007 refusing to grant stay of collection of disputed tax for the assessment year 2003-2004 under CST Act, 1956 pending disposal of the appeal and consequently, to restrain the 1st respondent from taking any coercive action for recovery of balance disputed tax for the assessment year 2003-2004 pending disposal of the appeal before the Sales Tax Appellate Tribunal.

The main grievance of the petitioner is that aggrieved by the revision order passed by the 2nd respondent, an appeal has been preferred before the Sales Tax Appellate Tribunal and that an amount of Rs.3,91,525/- as 25% of the disputed tax of Rs.11,64,139/- was paid for the purpose of maintaining the appeal. The petitioner filed an application before the 3rd respondent seeking stay of recovery of balance disputed tax pending appeal before the Sales Tax Appellate Tribunal. But the 3rd respondent refused to grant stay. Taking advantage of the same, the 1st respondent issued notice dated 27.11.2007 demanding the balance disputed tax. Aggrieved by the same, the present writ petition has been preferred.

Heard the learned Counsel appearing for the petitioner and the learned Government Pleader for Commercial Tax and perused the material available on record.

It is the contention of the learned Counsel for the petitioner that an appeal is pending before the Sales Tax Appellate Tribunal as to the assessment of disputed tax and in such a situation, rejection of stay application is unjustified and that if the relief as to the stay of the proceedings is not entertained and if the recovery of the disputed tax in question is effected during the pendency of the appeal before the Sales Tax Appellate Tribunal, the very purpose of filing the said appeal, which is a statutory remedy that is available to the aggrieved party, would be defeated.

In the facts and circumstances of the case and in view of the pendency of the appeal before the Sales Tax Appellate Tribunal, without expressing any opinion on the merits of the case, We feel it a fit case wherein stay can be granted, but subject to imposition of certain conditions. Accordingly, there shall be stay of recovery of disputed tax till the disposal of the appeal pending before the Sales Appellate Tribunal subject to the condition of the petitioner depositing 50% of the disputed tax within a period of six weeks from today. However, it is made clear that the amount paid if any, shall be given credit to the above stipulated sum.

Subject to the above direction, the writ petition is disposed of. No order as to costs.

_____

Justice T. Meena Kumari

_____
Justice G. Rohini

Date: 30th November, 2007
Nn/Gurc.

HONOURABLE MRS. JUSTICE T.MEENA KUMARI
&
HONOURABLE MS JUSTICE G. ROHINI

WRIT PETITION No:25566 OF 2007

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

30/11/2007